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General Allegation: United States of America

The Working Group received information from non-governmental organizations concerning the reported non-compliance by the Government of the United States of America with provisions of the Declaration on the Protection of All Persons from Enforced Disappearance.

It is reported that since September 11, 2001, the United States government has relied increasingly in its counterterrorism operations on a practice that has commonly become known as "rendition" or "extraordinary rendition." The practice generally involves the abduction of persons either outside or inside the US and their extrajudicial transfer either to US-run detention facilities overseas or to the custody of foreign intelligence agencies. Allegedly, even when suspects are transferred to the custody of foreign agents under the rendition program, the United States often maintains a degree of control over their custody as well as the interrogation process itself. Because the persons subjected to this practice are generally held *incommunicado* in secret facilities, the practice amounts to enforced disappearances. Reportedly, the rationale behind the rendition programme is to remove suspects from the protection and scrutiny of US or international law. It is alleged that by authorizing CIA agents to abduct suspects and transfer them to *incommunicado* detention in overseas prisons, the United States violates express provisions of international law regarding the right to freedom from arbitrary arrest and detention, and a right to judicial review for the basis of detention.

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To date, victims of the rendition program have not prevailed in their attempts to seek redress in U.S. courts. While US courts have recognized the prohibitions against arbitrary detention, torture, other cruel, inhuman or degrading treatment and enforced disappearance as discrete violations of international law cognizable under the Alien Tort Statute and the Torture Victim Protection Act, so far lower courts have found that only foreign officials can be held civilly liable for violation of these norms.

NGOs requested that Working Group ask the US government to provide information relating to the policy and practice of rendition, including any legal memoranda that may have been drafted justifying the practice, and if it is lawfully classified, for the Working Group to request to view it under a protective order.

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